

OFFEROR ACKNOWLEDGMENT AND AGREEMENT TO CERTAIN TERMS AND REQUIREMENTS

By its signature at the end of this document, Offeror:

1. Agrees to the Minimum Terms set forth below and incorporates the Minimum Terms into its Offer;
2. Affirms the representations and warranties in the Conflicts of Interest section below;
3. Agrees to abide by the Conflicts of Interest policy set forth below;
4. Acknowledges and agrees to the District's reserved rights, set forth below;
5. Acknowledges and agrees that the contents of this document supplement the Solicitation and the Offeror is bound to all terms (including minimum terms), conditions, conflict rules, and reservations of rights set forth in the Solicitation, whether or not restated below.

Minimum Terms

The Minimum Terms include the following:

Payment of Pre-Development and Development Costs

Offerors shall be responsible for all pre-development costs (including demolition of existing improvements and due diligence studies such as traffic, geotechnical, storm water management and other site preparations) and all Project development costs.

Local Small Disadvantaged Business Enterprise Participation and Certified Business Enterprise Utilization

Prior to the execution of a Ground Lease and Development Agreement or Land Disposition Agreement with the District, Offeror shall sign a Certified Business Enterprise Utilization and Participation Agreement ("CBE Agreement") with the D.C. Department of Small and Local Business Development ("DSLBD"). The CBE Agreement will outline the specific CEB contracting and procurement and equity and development participation requirements of the Offeror, and the efforts the Offeror will make to meet these requirements. The terms of the CBE Agreement shall include, but not be limited to the following: the Offeror shall contract and procure thirty-five (35) percent of the value of the Project with CBEs; businesses certified as LSDBEs shall receive no less than twenty (20) percent in equity participation and no less than twenty (20) percent in development participation in the Project; LSDBE development partners shall have the same opportunity to participate in all development, project management, construction management, or other related fees as the Offerors; LSDBE equity partners shall not be required to contribute more than twenty (20) percent of the sponsor equity contributed to the project; LSDBE equity partners shall receive a return on investment in the project that is *pari passu* with all other sources of sponsor equity; LSDBE partner(s)' equity interests shall not be diluted over the course of the project, including for failure to contribute additional capital; no LSDBE firm shall be expected to bear financial or execution requirements that are disproportionate with said LSDBE firm's equity position in Offerors' team and/or Project; LSDBE partner(s) shall have management control and approval rights in line with their equity position(s), and certain major decisions should require consent of one or more LSDBE partners or require a supermajority vote which must include one or more LSDBE partners; and LSDBE

partners shall be involved and represented to third parties as active team members, including through joint naming, advertising, branding, negotiation of debt and institutional equity financing, selection of master planners and other critical vendors, etc.

First Source Hiring

Offerors shall enter into a First Source Hiring Agreement with the District's Department of Employment Services, which shall require that the Offeror shall hire District residents for at least fifty-one (51) percent of the new jobs created by the Project.

Green Buildings

Offerors shall adhere to the District of Columbia's Green Building Act of 2006, D.C. Official Code § 6-1451.01 *et seq.* (2007), as well as any LEED certification requirements for the construction, rehabilitation, or renovation of District public assets, as applicable.

Parcel Ownership

Each Development Site will be conveyed or leased to the Offeror in "as-is" condition, without warranty by the District as to physical condition of the land or any existing structures.

Environmental Remediation

Offeror shall be responsible at its sole cost and liability for any environmental remediation that may be associated with removal or disturbance of existing site improvements or other site preparation.

Soil or Subsurface Conditions

Offeror acknowledges that the District makes no representations regarding the character or extent of soil or subsurface conditions or the conditions and existence of utilities that may be encountered during the course of any site work, development, construction or occupancy.

Conflicts of Interest

Representations and Warranties

Offeror represents and warrants the following to the District:

- The compensation to be requested, offered, paid, or received in connection with this Solicitation has been developed and provided independently and without consultation, communication, or other interaction with any other competitor for the purpose of restricting competition related to this solicitation or otherwise.
- No person or entity employed by the District or otherwise involved in preparing this solicitation on behalf of the District: (i) has provided any information to Offeror that was not also available to all entities responding to the Solicitation; (ii) is affiliated with or employed by Offeror or has any financial interest in Offeror; (iii) has provided any assistance to Offeror in responding to the Solicitation; or (iv) will benefit financially if Offerors are selected in response to the Solicitation
- Offeror has not offered or given to any District officer or employee any gratuity or anything of value intended to obtain favorable treatment under the Solicitation or any other solicitation

or other contract, and Offeror has not taken any action to induce any District officer or employee to violate the rules of ethics governing the District and its employees. Offeror has not and shall not offer, give or agree to give anything of value either to the District or any of its employees, agents, job shoppers, consultants, managers, or other person or firm representing the District, or to a member of the immediate family (that is, a spouse, child, parent, brother or sister) of any of the foregoing. Any such conduct shall be deemed a violation of this Solicitation. As used herein, “anything of value” shall include but not be limited to any (a) favors, such as meals, entertainment, transportation (other than that contemplated by this solicitation, if any, or any other contract with the District), etc., which might tend to obligate a District employee to Offeror, and (b) gift, gratuity, money, goods, equipment, services, lodging, discounts not available to the general public, offers or promises of employment, loans or the cancellation thereof, preferential treatment or business opportunity. Such term shall not include work or services rendered pursuant to any other valid District contract.

- Offerors shall not, with respect to District personnel who are personally and substantially involved in any aspect of this Solicitation:
 - (a) Make an offer of employment; or
 - (b) Conduct any negotiations for employment; or
 - (c) Employ or enter into contracts of any sort.

On-Going Reporting to District

Offerors shall report to the District directly and without undue delay any information concerning conduct which may involve: (a) corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority; or (b) any solicitation of money, goods, requests for future employment or benefit of thing of value, by or on behalf of any government employee, officer or public official, any Offerors’ employee, officer, agent, subcontractor, labor official, or other person for any purpose which may be related to the procurement of the Solicitation by Offerors, or which may affect performance in response to the Solicitation in any way.

District Reservation of Rights

Offeror acknowledges and agrees that the District reserves the right, in its sole discretion and as it may deem necessary, appropriate, or beneficial to the District with respect to the Solicitation, to:

- Cancel, withdraw or modify the Solicitation prior to or after the proposal deadline;
- Modify or issue clarifications to the Solicitation prior to the proposal deadline;
- After review of one or more offers, the District may request submission of additional information from some or all Offerors;
- The District may request one or more Offerors to modify its proposal(s), provide additional information, or provide a “Best and Final Offer” for the District’s review;
- Enter into negotiations with one or more Offerors based on offers submitted in response to the Solicitation;
- Reject any proposals it deems incomplete or unresponsive to the Solicitation requirements;
- Consider one or more proposals that are noncompliant with the Solicitation requirements;
- Reject all proposals that are submitted under the Solicitation;
- Modify the deadline for proposals or other actions;

- Reissue (i) the original Solicitation, (ii) a modified Solicitation, or (iii) a new Solicitation, whether or not any proposals have been received in response to the initial Solicitation issuance; and
- Subdivide the Solicitation into multiple, separately bid, negotiated and contracted components.

Acknowledged and agreed to on behalf of the Offeror by the following person, who affirms that he/she is authorized to act on behalf of the Offeror in this capacity:

Name:

Title:

Date: